

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-524V

UNPUBLISHED

VERONICA DEFEO, parent and
natural guardian of L.D., a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 7, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Rotavirus Vaccine; Intussusception

Amy A. Senerth, Muller Brazil, LLP, Dresher, PA, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On October 11, 2019, Veronica Defeo, parent and natural guardian of L.D., filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that L.D. suffered an intussusception injury as a result of a rotavirus vaccination administered on June 19, 2017. Petition at 1. Petitioner further alleges that the rotavirus vaccine was administered in the United States, that L.D.’s intussusception and digestive injuries and sequelae resulted in surgical intervention, and that no other party has received any compensation for L.D.’s vaccine-related injuries. Petition at 1, 3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On October 19, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for L.D.'s intussusception injury. On June 24, 2020, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$46,350.60 comprised of \$45,000.00 for pain and suffering and \$1,350.60 for unreimbursed expenses. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.³

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$46,350.60 comprised of \$45,000.00 for pain and suffering and \$1,350.60 for unreimbursed expenses the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ The Proffer further states that evidence of guardianship will be provided. Proffer at 2.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

L.D., a minor, by and through her
parent and natural guardian,
Veronica Defeo,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 18-524V

Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 11, 2019, respondent filed a Vaccine Rule 4(c) report concluding that petitioner suffered an injury that is compensable under the National Childhood Vaccine Injury Act of 1986, as amended, **42 U.S.C. §§300aa-10** to -34. Accordingly, on October 19, 2019, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation for her daughter’s intussusception injury.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$46,350.60 (\$45,000.00 for pain and suffering and \$1,350.60 for unreimbursed expenses) which represents all elements of compensation to which petitioner would be entitled under **42 U.S.C. § 300aa-15(a)**.¹ Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$46,350.60 in the form of a check payable to petitioner.

Petitioner agrees.

Evidence of guardianship will be provided.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

s/Christine Mary Becer
CHRISTINE MARY BECER
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-3665

Date: June 24, 2020